

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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KENNETH BELLET,

Plaintiff,

v.

**ORDER**  
03-CV-27S

CITY OF BUFFALO, ET AL.,

Defendants.

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1. On January 14, 2003, Plaintiff, proceeding *pro se*, commenced this civil action by filing a Complaint in the United States District Court for the Western District of New York pursuant to 42 U.S.C. § 1983, alleging that Defendants violated his civil rights. (Docket No. 1.<sup>1</sup>) On January 16, 2009, Defendant Rita Eisenbeis filed a Motion for Summary Judgment. (Docket No. 92.) Thereafter, this Court referred the case to the Honorable Jeremiah J. McCarthy, United States Magistrate Judge, to hear and report upon dispositive motions pursuant to 28 U.S.C. § 636(b)(1)(B). (Docket No. 93.)

2. Consistent with this Court's referral Order, Judge McCarthy filed a Report and Recommendation, recommending that Defendant's Motion for Summary Judgment be denied. (Docket No. 105.) No objections to the Report and Recommendation were received from either party within ten (10) days from the date of its service, in accordance with 28 U.S.C. § 636(b)(1)(C) and Local Rule 72.3(a)(3).

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<sup>1</sup> Plaintiff subsequently filed an Amended Complaint on March 6, 2003. (Docket No. 4.)

3. This Court has carefully reviewed Judge McCarthy's Report and Recommendation as well as the pleadings and materials submitted by the parties and will accept Judge McCarthy's recommendation.

IT HEREBY IS ORDERED, that this Court accepts Judge McCarthy's Report, and Recommendation (Docket No. 105) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that Defendant Rita Eisenbeis's Motion for Summary Judgment (Docket No. 92) is DENIED.

SO ORDERED.

Dated: September 7, 2009  
Buffalo, New York

/s/William M. Skretny  
WILLIAM M. SKRETNY  
United States District Judge